

UNITED STATES DISTRICT COURT
for the
Western District of Washington

In the Matter of the Search of:
MICHAEL BARRY HARKINS

Case No. MJ24-5357

APPLICATION FOR A SEARCH WARRANT FOR BLOOD SAMPLE

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that a sample of blood consisting of one of more tubes or vials should be taken from the following person:

MICHAEL BARRY HARKINS

located in the Western District of Washington and that this blood sample is evidence of the following crime or crimes.

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.522 and 18 U.S.C. § 13
- ☐ _____

This application is based on the facts set forth in the attached affidavit which is incorporated herein as if fully set forth.

Pursuant to Fed. R. Crim. P. 4.1 & 41(d)(3), this warrant is presented:

- ☒ By reliable electronic means. ☐ Telephonically (and recorded).

KEVIN DILLON Digitally signed by KEVIN DILLON
Date: 2024.10.29 18:58:17 -07'00'

Applicant's Signature
Kevin Dillon, US Park Ranger

The above-named agent provided a sworn statement attesting to the truth of the foregoing affidavit by telephone on this 29th day of October, 2024.



THE HON. S. KATE VAUGHAN
UNITED STATES MAGISTRATE JUDGE

1 STATE OF WASHINGTON)
 2) ss
 3 COUNTY OF KING)
 4

5 AFFIDAVIT OF KEVIN DILLON

6 I, Kevin Dillon, a US Park Ranger with the National Park Service, Mount Rainier
 7 National Park, Ashford, Washington, having been duly sworn, state as follows:

8 AFFIANT BACKGROUND

9 1. I have served as a law enforcement officer for the past nine years. My
 10 training and experience relevant to the investigation discussed below includes the
 11 following:

- 12 ☒ Basic Training at the Federal Law Enforcement Training Center
 13 ☐ Basic Law Enforcement Academy at the Washington Criminal
 14 Justice Training Commission
 15 ☒ Standardized Field Sobriety Testing
 16 ☐ Advanced Roadside Impaired Driving Enforcement Training
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18 2. The information presented in this affidavit is:

- 19 ☒ Based on my personal observations and interviews that I have
 20 conducted.
 21 ☐ Based on the personal observations and interviews conducted by xx,
 22 who is/are xx and xx. I have learned that this individual has received
 23 the following relevant training and has xx years of experience as a
 24 law enforcement officer.
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INTRODUCTION AND PURPOSE OF THE AFFIDAVIT

3. The purpose of this affidavit is to seek a search warrant to authorize me or other law enforcement officers to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in Chapter 18.88A of the Revised Code of Washington (RCW), a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or any technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from **MICHAEL BARRY HARKINS** (hereafter “the Subject”), who is fully identified in the proposed attached warrant. This warrant is requested for the purpose of gathering evidence of the following crime(s):

- ☒ Driving While Under the Influence in violation of RCW 46.61.502, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Physical Control of a Vehicle While Under the Influence of Alcohol or Drugs in violation of RCW 46.61.504, 18 U.S.C. § 13, and 36 C.F.R § 4.23 or 38 C.F.R. § 1.218
- ☐ Driver under Twenty-One Consuming Alcohol or Marijuana in violation of RCW 46.61.503 and 18 U.S.C. § 13
- ☐ Vehicular Homicide in violation of RCW 46.61.520 and 18 U.S.C. § 13
- ☐ Vehicular Assault in violation of RCW 46.61.522 and 18 U.S.C. § 13
- ☐ _____

4. I am seeking to present this application for a search warrant by electronic means because the natural metabolism of alcohol or drugs in the bloodstream may result in the loss of this evidence in the time it would take to present a search warrant application in a more traditional fashion.

SUMMARY OF PROBABLE CAUSE

5. As a result of my duties, I am familiar with the jurisdictional boundaries of Pierce County, Washington. The incident described below occurred within these jurisdictional boundaries, an area within the special maritime and territorial jurisdiction of the United States as defined in 18 U.S.C. § 7.

6. On the afternoon of 10/29/2024, at approximately 1435 hours, I received a report of a possible hit and run near milepost 64 of HWY 410. A few minutes later, I received another report of a motor vehicle collision near milepost 67. I responded to the area and found a Prius in a pullout unoccupied near milepost 66. I continued up the highway and found a BMW X5, the Subject's vehicle, about 25 feet off the road down an embankment.

7. When I arrived, at approximately 1445 hours, WSP Commercial Vehicle Enforcement Officer, Kevin Osborn was on scene with two witnesses and the Subject. Officer Osborn told me he believed the Subject was under the influence and smelled of alcohol.

8. When I arrived, the Subject was seated in the snow next to his vehicle. I asked him how he had gotten out and he said he had rolled out. I asked where he was going and he stated he had been headed to Yakima, when he tried to pass another vehicle. He was unable to stand, and crawled up the embankment with assistance of myself and another officer.

9. National Park Service Officer Jamie Hanson spoke with the owner of the Prius, who reported that he had observed the Subject driving too fast, too slow, and into the oncoming lane. After the owner of the Prius passed the Subject, he was hit from behind by the Subject's vehicle. The owner of the Prius then pulled over and the Subject stopped. The Subject got out of his vehicle for a brief moment and was mumbling. The Subject then got back into his car and sped away. The first crash, with the Prius, occurred approximately a mile from the second.

10. I arrested the subject for DUI at approximately 1520 hours. During the search incident to arrest the keys to the Subject's vehicle were located in the Subject's pocket.

11. Based on my training and experience, I believe the Subject may be under the influence of intoxicants or drugs for the following reasons: The Subject was seated next to the vehicle in the snow. He had glassy water eyes and smelled of alcohol. The Subject had difficulty standing and was unable to walk up the embankment and had to crawl while being assisted. The Subject declined medical treatment. In addition, Officer Hanson located two empty 500ml boxes of wine in the passenger seat.

12. The Subject:

- ☒ Has refused to take a breath Alcohol test on an instrument approved by the State Toxicologist or a federal agency for such breath testing.
- ☐ Is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility, or is at a location that lacks an instrument approved by the State Toxicologist or a federal agency for performing such breath testing, and has refused to submit to a blood test.
- ☐ Is incapable due to physical injury, physical incapacity, or other physical limitation of submitting to a breath alcohol test, and the defendant has refused to submit to a blood test.
- ☐ Has refused to submit to a blood test at the request of the undersigned.
- ☐ Was not offered an opportunity to take a breath alcohol test on an instrument approved by the State Toxicologist or a federal agency for such breath testing because:
 - ☐ The available instrument is currently out of order

☐ The individual does not speak English and the implied consent warnings are not available in a language that the defendant understands

☐ _____

☐ Submitted to a breath test on an instrument approved by the State Toxicologist or a federal agency for such breath testing but the breath alcohol concentration reading of xx is not consistent with the defendant's level of impairment suggesting that the defendant is under the influence of a drug.

13. A sample of blood extracted from the Subject if taken within a reasonable period of time after he/she last operated, or was in physical control of, a motor vehicle, may be tested to determine his/her current blood alcohol level and to detect the presence of any drugs that may have impaired his/her ability to drive. This search warrant is being requested within xx hours and number minutes after the Subject ceased driving or was found in in physical control of a motor vehicle.

CONCLUSION

14. For the reasons stated above, I request authority to direct a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A of the RCW, a physician assistant as defined in chapter 18.71A of the RCW, a first responder as defined in chapter 18.73 of the RCW, an emergency medical technician as defined in chapter 18.73 of the RCW, a health care assistant as defined in chapter 18.135 of the RCW, or a technician trained in withdrawing blood to extract a blood sample consisting of one or more tubes or vials from the Subject.

15. This application for a warrant is being presented electronically pursuant to Fed. R. Crim P. 4.1 & 41(d)(3).

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1 I certify (or declare) under penalty of perjury under the laws of the United States
2 that the foregoing is true and correct to the best of my knowledge, information and belief.

3 Dated this 29 day of October, 2024.

4 KEVIN
5 DILLON

Digitally signed by KEVIN
DILLON
Date: 2024.10.29 18:59:02
-07'00'

6 Kevin Dillon, Affiant
7 US Park Ranger, National Park Service

8 The above-named agent provided a sworn statement attesting to the truth of the
9 foregoing affidavit on the 29th day of October, 2024.

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11 THE HON. A. KATE VAUGHAN
12 UNITED STATES MAGISTRATE JUDGE
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